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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,657	08/28/2003	Darin M. Janoschka	8E07.1-070	1911
35725	7590	09/20/2005	EXAMINER	
MEHRMAN LAW OFFICE, P.C. ONE PREMIER PLAZA 5605 GLENRIDGE DRIVE, STE. 795 ATLANTA, GA 30342			VU, JIMMY T	
			ART UNIT	PAPER NUMBER
			2821	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/652,657

Applicant(s)

JANOSCHKA, DARIN M.

Examiner

Jimmy T. Vu

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-7 is/are rejected.
- 7) ☒ Claim(s) 3 and 8-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Election/Restrictions***

Applicant's election with traverse of claims 1-11 (Group II) in the reply filed on 07/06/2005 is acknowledged. The traversal is on the ground(s) that the inventive step for each class is the same and should therefore be considered a single invention. This is not found persuasive because three Groups are in different subclasses and are related as combination and sub-combination.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Runyon (U.S. Patent number 6,788,165 B2).

Regarding claim 1, Runyon discloses a phase shifter, comprising:

a backplane (335) carrying a transmission media trace;

a wiper arm (205) pivotally attached to the backplane and carrying a trace contact;

an actuator (415) for pivoting the wiper arm with respect to the backplane;

a signal conductor (120, 125) in electrical communication with the trace contact;

and

a cantilever shoe (340) including a trace contact biasing element configured to bias the trace contact toward the transmission media trace (Figs. 8A-9, col. 11, lines 60-67, col. 12, lines 1-25).

Regarding claim 2, Runyon discloses the phase shifter wherein the trace contact biasing element comprises a spring-loaded plunger (410) positioned adjacent to the trace contact (Figs. 8A-9).

Regarding claim 4, Runyon discloses the phase shifter wherein the signal contact biasing element comprises a spring washer (405) positioned adjacent to the signal contact (Fig. 9).

Regarding claim 5, Runyon discloses the phase shifter wherein the actuator comprises a knob for manually pivoting the wiper arm (Figs. 8A-9).

Regarding claim 6, Runyon discloses the phase shifter wherein the actuator comprises a motor (425) for mechanically pivoting the wiper arm (Figs. 8A-9).

Regarding claim 7, Runyon discloses the phase shifter wherein the wiper arm is located on a front side of the backplane and the motor is located on a rear side of the backplane (Figs. 8A-9).

***Allowable Subject Matter***

3. Claims 3 and 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the prior art teaches the phase shifter wherein the wiper arm comprises a signal contact electrically located between the signal conductor and the trace contact; and the cantilever shoe comprises a signal contact biasing element configured to bias the signal contact toward the signal trace.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Vu whose telephone number is (571) 272-1832. The examiner can normally be reached on M - F: 9 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2800.

Jimmy Vu

September 15, 2005

  
WILSON LEE  
PRIMARY EXAMINER